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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/935,116	09/22/1997	DAVID W. DEATON	DEATON-18-USC1	8230
31518	7590	11/26/2008		
NEIFELD IP LAW, PC 4813-B EISENHOWER AVENUE ALEXANDRIA, VA 22304			EXAMINER ALVAREZ, RAQUEL	
			ART UNIT 3688	PAPER NUMBER
			NOTIFICATION DATE 11/26/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 08/935,116	<b>Applicant(s)</b> DEATON, DAVID W.	
	<b>Examiner</b> Raquel Alvarez	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This office action is in response to petition decision granting the petition on the restriction requirement.
2. Claims 8-76 are presented for examination.

#### **Claim Rejections - 35 USC § 102**

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 8-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Nichtberger et al. (4,882,675 hereinafter Nichtberger).

With respect to claims 8-15, Nichtberger teaches a system for accumulating customer transaction data at the point of sale in a retail establishment and for effectuating customer promotion (abstract). A terminal for entering unique customer identification codes from customer identification presented at the point of sale in a retail transaction (col. 17, lines 30-48); means for allowing entry of customer transaction data (col. 17, lines 49-60); a processor and a memory responsive to said terminal and said means allowing entry for creating a database for a plurality of the store's customers' transaction data from prior shopping visits, such that data regarding individual customer's prior transactions are stored in association with said individual customer's unique identification code (col. 12, lines 16-32); circuitry responsive to said processor, memory, and a database for generating a customer information response signal at the point of sale during said individual customer's transaction in said retail establishment

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upon detection of a unique identification code of said individual customer (col. 11, lines 46-50 and col. 18, lines 49-61); said signal being related to said individual customer's transaction data in shopping visits prior to the current shopping visit (col. 17, lines 49-61); and said signal providing information at said point of sale terminal derived from said database and useful for effectuating targeted customer promotion (col. 17, lines 49-61).

Claim 16 differs from claims 8-15 in that it further recites that the entering step into a point-of-sale terminal is an account number from a payment instrument presented by a customer. Nichtberger teaches that a credit card with a magnetic stripe can be used to activate the system (col. 19, lines 63 to col. 20, lines 1-7).

**Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichtberger in view of Official Notice.

Claims 17-41, 49-76 differ from claims 8-15 in that the claims further recite a database of prior customer purchases including the dollar amount of the purchases during an specified time period. Nichtberger teaches storing in a database the details the previous purchases/transactions information (col. 12, lines 16-32). Nichtberger

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doesn't specifically identify the retrieved information as being the dollar amount of the purchases. Official Notice is taken that a database of prior purchases would have been obvious to include the dollar amount of the purchases in order to allow the system to keep track of the amount spent by the customers during an specified time period and will allow coupons to be targeted based on the amount spent during an specified period. For example, customer A might spent more money during the holidays and will receive coupons accordingly. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included in the database of customer previous purchases of Nichtberger the dollar amount in order to obtain the above mentioned advantage.

Claims 42-48 further recite a first database at said first retail store, a second database at said second retail store and a global database for storing prior transactions from said first and second databases. Official Notice is taken that it obvious and well known for local stores to transmit information to a host server in order for the information to be shared. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a first database at said first retail store, a second database at said second retail store and a global database for storing prior transactions from said first and second databases in order to obtain the above mentioned advantage.

**Point of contact**

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James w. Myhre can be reached on (571)272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

R.A.  
11/21/2008